IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE FIFTEENTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION No.17648 of 2000

Between:

1 Galla Srinivasa Rao, S/o. Venkateswarulu, Hindu, aged 23 years,
R/o. Pesarlanka, Kolluru Mandal, Guntur District.
2 Velivela Ravi @ Ravindra Babu, S/o. Kanakaiah, Hindu, aged 22 years,
R/o. Pesarlanka, Kolluru Mandal, Guntur District.
3 Adsumalli Sivaiah, S/o. China Basavaiah, Hindu, aged 20 years,
R/o. Pesarlanka, Kolluru Mandal, Guntur District.

..... PETITIONERS

AND

1 State: rep by its Principal Secretary, (Home),
Secretariat Buildings, Hyderabad.
2 State: SHO Kolluru P.S. being Rep by its Public Prosecutor,
High Court, Hyderabad.
3 Kattivarapu Jesudasu, S/o. Koteswara Rao, Christian,
R/o. Kolluru, Guntur District.
R3 impleade as per Court Order in WPMP.No.24335/00 dt:8.2.02.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ or Order more especially one in the nature of Writ of Certiorari call for records pertaining to the FIR No.60/2000 on the file of SHO Kolluru PS Guntur district, i.e., the Respondent No.2 and quash the same as illegal, arbitrary, capricious and violative of principles of natural justice and consequentially stay all further proceedings including the arrest of the petitioners in Crime No. 60/2000 of Kolluru P.S. Guntur distict, pending disposal of this Writ Petition and pass such other order or orders as are deemed fit and proper in the circumstances of the case.

Counsel for the Petitioners: MR.RAVI SHANKAR JANDHYALA

Counsel for the Respondent Nos.1 and 2: GP FOR HOME

Counsel for the Respondent No.3:MR.M.JANARDHANA RAO

The Court made the following:

ORDER:

The petitioners seek a writ of Certiorari to quash the F.I.R.No.60 of 2000 of P.S. Kolluru, Guntur District on the ground of registration of crime against the petitioners. On a complaint given by the third respondent, the second respondent registered the crime under Section 3(1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereafter called 'the Act'). In the complaint, the third respondent alleged that on 31.8.2000 when he and his friend Allamudi Ravindra Babu were doing some work in the recording center, the petitioners and others came in a procession and abused the third respondent and others saying that if any person belonging to SC or ST comes in their way, the petitioners would slaughter them. In this writ petition, the main contention is that the complainant does not belong to S.C/S.T. and that he being Christian mala, he belongs to B.C.(c) and therefore, a crime is not made out.

Refuting the contention, the learned Assistant Government pleader submits that as per the complaint when the petitioners abused the third respondent, there was another person by name Allamudi Ravindra Babu, who belongs to scheduled caste and therefore, a crime under Section 3(1)(x) of the Act is made out. Whether a person who gave a complaint to the police belongs to S.C/S.T is a matter, which is a question of fact. Therefore, in a writ petition, the same cannot be decided. During the trial, it is always open to the petitioners to bring out this point and seek acquittal.

In **Moganti Srinivasa Rao v State of A.P**., this Court considered the question whether in proceedings under Article 226 of the Constitution of India, the question whether a person belongs to Scheduled Caste/Scheduled Tribe, can be gone into. Answering the question in negative, this Court held:

> As rightly contended by the learned Counsel for the petitioners, there would be some doubt as to the social status of a complainant who alleges the commission of offences by persons not belonging to Scheduled Castes or Scheduled Tribes. However strong the allegations may be, that the complainant does not belong to Scheduled Caste or Scheduled Tribe, but this Court in exercise of its power under Article 226 of the Constitution of India cannot go into such allegations for such allegations have to await the regular criminal trial.

> It is well settled that ordinarily this Court would not exercise its jurisdiction under Article 226 of the Constitution of India and quash the F.I.R. when the F.I.R. discloses the ingredients of an offence. The High Court cannot look for the evidence in the complaint and quash the F.I.R. What, in effect, the learned Counsel for the petitioners would contend is that there is no proof to show that the 2nd respondent belongs to Scheduled Tribe, and on the contrary there is evidence to show that he belongs to 'Adi Andhra', a Christian community, falling under Group 'C' of the notified Backward

Classes. This may be a valid ground of defence during the regular criminal trial, but it cannot be a ground for quashing the F.I.R.

In a recent judgment delivered by me while dealing with the case relating to the crime registered under Section 3(1)(x) of the Act in **G.Ramakrishna Reddy v State of Andhra Pradesh** in Crl.P.No.6099 of 2004 dated 01.04.2005 (unreported), I have held as under.

> A number of cases under Section 482 of Cr.P.C., are being filed for quashing the case at the stage of investigation and/or at the stage of prosecution before the special Court. Whenever an offence under Section 3(1)(x) of the Act is alleged, one of the submissions is that the alleged insult or intimidation is not in a place within the public view and therefore the case is quashed on that ground. The other usual grounds urged are that the complainant is not a person belonging to scheduled caste or scheduled tribe, that the complaint is filed to harass and to blackmail the accused in relation to a previous dispute and that such a complaint is filed to take vengeance against the accused. An answer to all these grounds, if it is to be in favour of the accused, requires further answers to other questions, as to what happened, when happened, how happened and why it happened. There can be no answer to these questions without there being full evidence before the Court. No one can arrive at a definite conclusion or plausible conclusion based on some hazy and vague material brought by the accused for evaluation by the Court. It would, therefore, be hazardous for this Court to venture into arena of conjecture to find answers. The Court should be cautious not to be swayed by the rhetoric presented by the accused, which is presented more often than not in every case for quashing.

It is also now well settled that when a petition is filed under Article 226 of Constitution of India or under Section 482 of Code of Criminal Procedure, 1973 for quashing a crime, the Court should always be cautious and investigation into a crime cannot be thwarted at the threshold. This Court, in this case, does not find any ground to quash the crime.

The writ petition is devoid of merits and is accordingly dismissed.

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(**V.V.S.RAO,J)**

June 15, 2005.

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To

1 The Principal Secretary, (Home), Secretariat Buildings, Hyderabad.
2 The SHO, Kolluru P.S.,Guntur District.

3 Two CCs to the Government Pleader for Home, High Court Buildings,

Hyderabad. (OUT)

4 Two CCs to the P.P., High Court Buildings, Hyderabad.

5 Two C.D. Copies.